

JOSEPH P. RUSSONIELLO (CABN 44332)
United States Attorney

BRIAN J. STRETCH(CABN 163973)
Chief, Criminal Division

CHRISTINE Y. WONG (NYBN 3988607)
Assistant United States Attorney

450 Golden Gate Avenue, Box 36055
San Francisco, California 94102
Telephone: (415) 436-7301
Facsimile: (415) 436-6753
E-Mail: Christine.Wong@usdoj.gov

Attorneys for the United States of America

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA)	No. 09-0347 MHP
)	
v.)	
)	PROPOSED ORDER
HIEU NGUYEN,)	
Defendant.)	
)	

On October 26, 2009, defendant Hieu Nguyen filed a motion to suppress evidence in the above-referenced case, arguing that the San Francisco Police Department (“SFPD”) officers did not have cause to conduct a traffic enforcement stop of the vehicle Nguyen was driving on August 31, 2008. On October 27, 2009, the defendant filed a declaration in support of his motion to suppress. On November 9, 2009, the United States filed a response to the motion to suppress, stating that an evidentiary hearing on the motion was appropriate, given the factual dispute between the parties. On February 9, 2010, an evidentiary hearing was held before this

1 Court. SFPD Officers Juan Gala and Jose Guardado testified. Officers Gala and Guardado both
2 testified that they observed the defendant fail to make a stop at a stop sign. Based on his failure
3 to make the stop, the officers conducted a traffic enforcement stop. During the stop, the officers
4 determined that the defendant was on felony probation with a search condition. The defendant
5 was subsequently searched. The defendant did not testify. On March 1, 2010, the Court heard
6 argument on the motion to suppress.

7 The Court finds that Officers Gala and Guardado testified credibly and generally
8 consistently with each other and the police report in this case. The Court finds that the defendant
9 did not testify despite opportunity to do so, and the assertions in his affidavit were not subject to
10 cross-examination. Based on the Court's review of the defendant's affidavit and evaluation of
11 the officers' testimony at the evidentiary hearing, in addition to all the pleadings filed in this
12 matter, the Court denies the defendant's motion to suppress.

13 IT IS SO ORDERED.

14
15
16
17 DATED: March 18, 2010

